

# HON. G. A. GROW, OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES, MAY 10, 1854.

The House being in the Committee of the Whole on the state of the Union—

Mr. GROW said:

Mr. CHAIRMAN: The bill under consideration provides for organizing two territorial governments, to be called Nebraska and Kansas, embracing together about six hundred and sixty-five thousand square miles—an area twice as large as the original thirteen Colonies, and extending from New Mexico to the British possessions, and from the western limits of Minnesota and the organized States to Washington and Oregon, containing four hundred and twenty-five million acres of land, being more than a fourth of all the public lands now owned by the Government.

The provisions of the bill are those usually inserted in bills for the organization of territorial governments, with the exception of the fourteenth section, which repeals so much of the Missouri compromise act as prohibited slavery in all the territory purchased of France, lying north of the parallel of 36° 30' north latitude. The opposition to this bill, with the exception of the propriety of organizing two territorial governments at this time instead of one, is confined wholly to this section. And the objection to the Senate bill is to the same section, and to that provision known as the Clayton amendment, which restricts the elective franchise in the Territories to citizens alone. It having been the policy of the Government heretofore to permit all persons residing in the Territory, who had declared their intention to become citizens, to participate in the organization of the government, what reason is there for their exclusion in this case, or for their exclusion in any similar one? The fact that they are residents of the Territory is the best evidence that they have settled there with the intention of making it their permanent home, and their oath in the declaration of intention to become citizens absolves them from allegiance to foreign Powers, and clothes them with our nationality. And why, on the doctrines of popular sovereignty, should they not be allowed a voice in this infant state of society in moulding the institutions under which they are to live? Their exclusion in this case, therefore, would be not only unjust, but inconsistent with the great principle claimed to be embodied in this bill by its special advocates.

But the territory proposed to be embraced in Nebraska is one vast wilderness, inhabited by tribes of wild Indians, most of whom are far removed from your settlements, and have never had any intercourse with the whites. And why should

they be disturbed now? Why hasten on the time when you must make treaties for the purchase of their lands, with their long train of annuities swelling up the annual expenditures of the Government millions? Why should the Government force its officers and temporary governments on into the wilderness far in advance of the tide of emigration, especially when it is to drive the red man from his last forest home? For when the buffalo shall flee from the plains of Nebraska at the approach of the white man, the hunting ground of the Indian will exist only in the land of "the Great Spirit." It will be but a few years, at best, before the civilization of Western Europe and the regenerated civilization of Eastern Asia, commingling on the crest of the Rocky Mountains, will blot forever from the generations of living men the last representative of the Indian race. True, as was well said, some days since, by the gentleman from Missouri, [Mr. CARUTHERS,] that is his doom. He must give way to an advancing civilization, and the forms of savage life must yield to its necessities. Extirpation, some day, is therefore his inevitable fate. Destiny has stamped it on the annals of his race, and time is fast fulfilling the decree. But is it a wise and humane policy, on the part of the Government, needlessly to hasten its accomplishment?

But what reason is there for the organization of any territorial government at this time over any of this territory? There is but one of any force, and that, however, with me, is sufficient: it is to have an organized government to protect the emigrant, and contemplated railroad routes to California and Oregon. But one Territory is sufficient for that purpose, and would embrace all the white population now settled between Utah and the States. One Territory, embracing about a fifth of this vast area, would form a continuous connection of Territories skirting the western borders of all the States, reaching across our entire limits, from the British possessions to Mexico. West of Wisconsin we should have Minnesota; of Iowa and Missouri, the new Territory; of Arkansas and Texas, New Mexico; while the Pacific coast is lined with Washington and Oregon. Why should the Government go to the expense of organizing territorial governments two deep where there are no white population, and no occasion any for years? The expense of each of these territorial governments, in salaries to officers, and the expenses of legislation would be not less than \$70,000 a year, besides the expense of keeping up military posts, requiring an increase of the

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Army, with its attendant expenditure, as well as a vast amount of claims upon the Government for Indian depredations upon the private property of the citizen. So that the entire expense of each of these Territories would nearly or quite reach \$160,000 a year.

But this objection is merely to the propriety of an expenditure of money, and the policy that should govern our intercourse with the Indian tribes. It is, however, a sufficient reason with me why there should be but one territorial government instead of two organized at this time. But the great and controlling objection to even that, as proposed by this bill, is the repeal of the eighth section of the act of 6th March, 1820. And in order properly to discuss that question, it is necessary briefly to refer to the political history of a few years. During the first session of the Thirty-First Congress, five separate and distinct acts of legislation were ingrafted on your statute-book, and christened the compromise of 1850. It was heralded to the country by its friends as an almoner of peace, and the dove was sent forth over the troubled waters. A year passed away, and no note of discord was heard in these Halls. The political animosities engendered by the sectional strife and contests of the past four years had lost their bitterness and rancor, and a general acquiescence pervaded the whole country.

I left my home to take a seat in the Thirty-Second Congress, with no idea that the deliberations of this Hall were to be in any way disturbed by the question of slavery during my term of service as a Representative; and fully resolved, that they should not be by any word or act of mine. But, before the organization of this House, and before the utterance of a word proposing to disturb that compromise, resolutions were introduced by a southern member into the Democratic caucus, and subsequently into both branches of Congress, to declare it a finality. I voted, sir, against their introduction in any form, and against them on their final passage, for reasons then stated, and which I still believe to be good, "that I regarded any further agitation of these questions at this time as useless and unnecessary, and not being one of those who believed that discussion on one side of a question is not agitation, while discussion on the other is, I could see no benefit likely to accrue from their passage." I know, sir, of but one way to quiet and end agitation on any subject, and that is to cease acting and talking about it.

At that time I fully indorsed remarks of the Senator from Illinois, [Mr. DOUGLAS,] made in opposition to these resolutions, in the Senate of the United States, on the 23d of December, 1851, most of which are equally applicable to the present time, in which he said:

"Are not the friends of the compromise becoming agitators, and will not the country hold us responsible for that which we condemn and denounce in the Abolitionists and Free-Soilers?"

"Those who preach peace should not be the first to commence and reopen an old quarrel."

"Let us cease agitating, stop the debate, and drop the subject."

That was my opinion then, sir, and upon that conviction I have acted ever since. But a few months later, and all sections of the two great political parties of the country, in convention at Baltimore, pledged to each other their faith and their honor "to resist all attempts at renewing, in Congress or out of it, the agitation of the slavery question, under whatever shape or color the attempt may be

made." Adopting that pledge, I entered the canvass of 1852, and gave my best energies and efforts to the success of the Democratic party, and the triumph of its nominees. Relying on the honor and integrity of the party, and the good faith mutually pledged by its members, I congratulated myself in its success, that at last there was an end of slavery agitation in the halls of Congress, and that the country could once more repose in peace. For the olive branch had been extended over by-gones, and "the dead past was to bury its dead."

But before the compromise of 1850 is four years old, we find ourselves in the midst of another wild sectional controversy, and "the agitation of the slavery question" is again renewed in and out of Congress. The discovery is just made by a northern man, that great wrong and injustice has been done the South in the legislation of the country, and to which with remarkable humility she has quietly submitted for more than a third of a century. If the Missouri compromise be an indignity and a wrong, it was heaped upon the South by her own sons. For, at the time of its passage, there were eleven free and eleven slaveholding States in the Union, and of the twenty-two southern Senators but eight in a full Senate voted against it. And of her eighty-one Representatives upon this floor only thirty-eight. So that of her *one hundred and three* Representatives in both branches of Congress forty-six only voted against this flagrant wrong and a southern President consummated the injustice by signing the act with the advice and approval of a Cabinet, a majority of whom were from slaveholding States. Mr. Clay, in his speech of the 6th of March, 1850, in which he explained his connection with the Missouri compromise, declared that "among those who agreed to that line were a majority of southern members."

"I have no earthly doubt that I voted, in common with many other southern friends for the adoption of the line of 35° 30'."

Here is his own declaration to settle forever the controversy that has been raised in this Hall whether he was estab-

lishing the line.  
Mr. SMITH. I permit me

Mr. GROW. If the gentleman has no time to spare.

Mr. SMITH. The proposition came upon two points.

Mr. GROW. Oh, I will explain that myself. Mr. Clay was opposed to the restriction on the State of Missouri, but not to the establishment of this line of prohibition. I suppose that is what the gentleman alludes to.

Mr. SMITH. No, sir, it was not that; I will explain, if the gentleman will permit me.

Mr. GROW. I cannot consent to have the gentleman take up my time for that purpose. The record shows that this deed was done by southern men, under southern influences, claimed at the time by the South as a triumph, and regarded by the North as a defeat. And yet, it is charged by the Representatives of the South upon this floor day by day, and reiterated even by northern men as one of the flagrant aggressions of the North in violation of justice and of honor.

Sir, this discovery of wrong and injustice has been made since the 23d of December, 1851, for on that day the Senator from Illinois, [Mr. DOUGLAS,] declared, in the Senate of the United States that the Missouri compromise "had been acquiesced in cheerfully and cordially by the people of

more than a quarter of a century, and which all parties and sections of the Union professed to respect and cherish as a fair, just, and honorable adjustment." And it was so regarded by the members of the last Congress, both North and South. For the bill organizing Nebraska, with not a word in it relative to slavery, introduced by Mr. Hall, of Missouri, passed this House by a vote of ninety-eight to forty-three, ten of which were given by northern men; so there were but thirty-three southern votes against it. Not a word of objection was made to it by any one because it did not repeal the Missouri compromise. Nor was it then understood to be inconsistent with the legislation of 1850.

On the last day of the session, Mr. DOUGLAS himself appealed to the Senate to take up this bill, for he was sure there was a majority for it if it could be brought to a vote, and "he should be delighted at its passage." Mr. ARCHISON, of Missouri, in urging the Senate to take it up and pass it, said:

"It is evident that the Missouri compromise cannot be repealed. So far as that question is concerned, we might as well agree to the admission of this Territory now as next year, or five or ten years hence."—*Congressional Globe, Second Session 32d Cong., vol. 26, page 2443.*

What act has northern men committed since that time so craven that you now expect them to do what you did not then presume upon their manhood to ask to be performed? Though the Missouri compromise was passed by the usual forms of legislation, yet, owing to the circumstances surrounding its adoption, it cannot, in the language of Mr. Dickinson, of New York, made in the Senate the 12th January, 1848, "be regarded as an ordinary act of legislation, upon the majority principle. It was rather in the nature of a compact, not adopted as such, to be sure, but assented to or acquiesced in by all the States through their Representatives in Congress, or otherwise." It was a settlement of a sectional strife, conflicting interests, and conflicting opinions, in which the passions of men had become inflamed, and the patriot trembled for the future of his country. And is there no faith to be given to such arrangements, to reconciliations made under such circumstances? If you do not observe the settlements of strife and discord made by your fathers, what guarantee have you that your children will observe those made by yourselves?

But you say the arrangement was unconstitutional, and is therefore void; that the Constitution secures to you the right to go into any Territory of this Union, and plant there the institution of human bondage. Even if that be the case, your fathers agreed with our fathers in 1820 that you would waive that right so far as this Territory was concerned; and you have gone on and taken advantage of all the benefits secured by that arrangement to you, and now you propose to come in and share those secured to us, on the plea that, outside of State limits, you have the absolute right to plant slavery wherever the flag of the country floats. If that is one of your constitutional rights, then there is no occasion for repealing this act, for the courts would annul it. If it is constitutional, no northern man ought to vote to repeal it; if unconstitutional, there is a tribunal organized by the federal compact itself to settle such questions. But if the Constitution itself settles any rights relative to slavery in the Territories, what are they? It extends the jurisdiction of Congress over the Territory. As the Territory is em-

braced in no other jurisdiction, it is, therefore, local and exclusive, not like that over the States, for there it is limited and defined, leaving each State to settle for itself all questions of private rights, either of persons or property. But in the Territories, before the organization of a legislative body, what legal jurisdiction can there be save that of Congress, and what private rights are secured to the persons dwelling therein save those guaranteed in the Constitution itself—among the most important of which is that "no person shall be deprived of life or liberty without due course of law?" Before any legislation, then, either by Congress or the local Legislature, while there is no legal jurisdiction of any kind extending over the Territory save the Constitution itself, how can it, by its own inherent force and power, enslave and hold in bondage a human being, in violation of one of its most sacred and solemn guarantees of personal rights? But when the Territory is converted into a State, it is then clothed with all the attributes of State sovereignty, and the jurisdiction of Congress and the Constitution, from being exclusive becomes limited and defined, and thus the two jurisdictions are harmonized.

Upon this point I will refer to the authority of but one of many distinguished names, and to which I desire specially to call the attention of the gentleman from Kentucky, [Mr. BRECKINRIDGE,] who combines, with so much credit to himself, the characteristic of his family name, as well as the sterling virtues of an oft-defeated, though unconquered, Kentucky Democracy, and also the attention of all others who were his disciples while living, and who revere his name now that he is dead. It is an authority that will not be questioned by them, and certainly not by a son of Kentucky; and upon this question it has become canonized in the hearts of the American people.

Mr. Clay said, in reply to this claim of constitutional right to carry slavery wherever the jurisdiction of that instrument extends, in the Senate, 22d July, 1850:

"If I had not heard that opinion avowed, I should have regarded it as one of the most extraordinary assumptions, and the most indefensible position, that was ever taken by man." "You cannot put your finger on the part of the Constitution which conveys the right or the power to carry slaves from one of the States of the Union to any Territory of the United States."

I leave the advocates of this doctrine with their own champion who stood on the floor of the Senate of the United States to scout the idea, and to declare that if he had not heard it, he would believe it beyond the presumption of man.

But it is said that these Territories are common property, and that all the citizens of the United States have common rights in them; and that, therefore, no citizen can be excluded from emigrating to them without injustice and degradation. No one proposes to exclude any person from emigrating and settling on the public domain. The territory, it is true, is the common property of the whole people, but by the Federal Constitution they agreed to put it under a supervisory power. That power is Congress; Congress is made a board of direction over this trust-fund, to use it in such way as, in their sound discretion, will be most advantageous to the trust, and will best accomplish the object of its creation, the promotion of the real and permanent interests of the country. Whoever goes into the Territory, therefore, as a settler, must conform to the "rules and regulations" established by this supervisory board,

created by the common consent and agreement of the whole country, and made one of the articles of compact. No person has any separate, distinct individual right that he can have set apart as his share to use as he pleases, any more than he can take his share of the President's House, or of this Capitol, and appropriate it to his own use. It can be used only in such way as, in the judgment of Congress, will conduce to the advantage of the whole. Any attempt to exclude any citizen from emigrating to the Territories upon the same condition that you permit others, would, of course, be unjust.

But you claim to hold there, legally, whatever the laws of the State from which you emigrated recognize as property, because you are joint owners of this Territory. It is upon no such doctrine that any species of property is held by any person in the Territories. He can hold whatever the common law of the country recognizes as property, and nothing else, till there is local legislation, no matter where he comes from, whether from the North or South, from Europe or Asia. All are, therefore, placed on an equality, and the rights of each are determined by the same standard, and governed by the same law. If, then, you have an anomalous species of property, not recognized by the common law by which the rights of every one else are determined, then you must submit to whatever inconveniences are incident to that species of property wherever you may take it. Mr. Clay said, in the Senate, July 22, 1850:

"Nor can I admit for a single moment that there is any separate or several rights upon the part of the States or individual members of a State, or any portion of the people of the United States, to carry slaves into the Territories under the idea that these Territories are held in common between the several States."

In adhering to any opinion of the illustrious Kentuckian on the question of slavery, I trust no northern man will be charged with fanaticism.

If slaves are recognized as property by the common law of the land, by which all of our rights of property in the Territories are fixed, then you can take them there, and hold them as such. But if the right rests only on local and municipal enactments, then there is no reason for charging the North with a want of fidelity to the compact, but you should rather blame nature, and reason, and the common law of the land, in the enacting of which we have had no part. The decisions of the courts, from the time of Lord Mansfield's decision in the famous *Sommersette* case, in 1771, down to the present time, have been constant and uniform, that there is no foundation for slavery in nature or reason, but that it must rest for its support solely on local law. The gentleman from Virginia, [Mr. BAYLY,] who has just taken his seat, said that no court in the country had ever decided that slavery could not exist without local law, but that the correct doctrine is, that it could exist unless there was a law prohibiting it.

MR. BAYLY. With the permission of the gentleman, I will say that in the case of *Sommersette* the opinion of Lord Mansfield—

MR. GROW. I cannot yield to the gentleman to explain Lord Mansfield's decision. If I have misstated his position, he can correct me.

But it has been decided by your own courts, by the highest judicial tribunals of your own States, of Kentucky, Missouri, Louisiana, and Mississippi, that slavery can only exist by positive municipal regulations; and, sir, I have only time to cite a few of them:

"Shall it be said that because an officer of the Army owns slaves in Virginia, that when an officer and soldier he is required to take command of a post in the non-slaveholding States or Territories, he thereby has a right to take with him as many slaves as will suit his interest or convenience. It surely cannot be the law."—*Rachael vs. Walker*, 4 Missouri, 354.

"The relation of owner and slave is, in the States of the Union, in which it has a legal existence, a creation of the municipal law."—*Sup. court of Louisiana, Lunsford vs. Coquillon*, 14 Martin's Reports, 462.

"Slavery is condemned by reason and the laws of nature. It exists, and can only exist, through municipal regulations."—*Sup. court of Mississippi, Harry et al. vs. Decker & Hopkins, Walker's Reports*, 42.

"The right of the master exists not by force of the law of nature, or of nations, but by virtue only of the positive law of the State."—*State of Mississippi vs. Jones, Walker's Reports*, 83.

"The state of slavery is deemed to be a mere municipal regulation, founded upon and limited to the range of the territorial law."—*Sup. Court United States, Prigg vs. Commonwealth of Pennsylvania*, 16 Peters, 611.

And as the law of a State extends not beyond the territorial limits of its jurisdiction, whenever one of its citizens goes beyond that, he is divested of the incidents of citizenship of that State, and takes on those of the State or place in which he may be. He cannot carry his local institutions and their incidents with him, but he takes upon himself the characteristics of citizenship of the place to which he goes.

But it is claimed, even if this law is constitutional, that the legislation of 1850 rendered it "inoperative;" for territory north of this Missouri compromise line was included within the limits of Utah and New Mexico. What if there was, how does that change its character? During the territorial existence of Utah and New Mexico, slavery is just as effectually excluded north of that line as it was on the 6th of March, 1820. For a Territorial Legislature has no power to repeal, or in any way impair an act of Congress. If then the act of 1820, fixing the line of 36° 30', is a valid enactment, slavery is of course excluded in all the territory north of that line during its territorial existence, no matter under what local jurisdiction it may be included.

There was no principle established or act done in the legislation of 1850 inconsistent even with this act of 1820; for there were laws in New Mexico and Utah when we received them from Mexico, prohibiting slavery. And, I take it to be a sound and universally recognized principle of international law, that the laws of a conquered country, not inconsistent with the organic law of the conqueror, continue in full force till changed by the conquering power. Congress refused in 1850 to change them, so they remained valid enactments for the Territory just the same as if they had been reenacted by Congress. And territorial governments were therefore formed, leaving the validity of these laws to be settled by the courts. And why not do the same thing in this case? Here is a law prohibiting slavery in the Territory we propose to organize; so there was in Utah and New Mexico, and we left it untouched there, and to be consistent with our action then, we should do the same thing now. That was the opinion of the chairman of the Committee on Territories in the Senate, [MR. DOUGLAS,] as expressed in his report on the bill he first introduced, before the addition of the amendments, *superedures*, and *inconsistencies*. And I desire to call particular attention to the following extract from his report made on the introduction of the original bill, the 4th of January last:

"As Congress deemed it wise and prudent to refrain

from deciding the matters in controversy then, (i. e. 1850,) either by affirming or repealing the Mexican laws, or by an act declaratory of the true intent of the Constitution and the extent of the protection afforded by it to slave property in the Territories, so your committee are not prepared now to recommend a departure from the course pursued on that memorable occasion, either by affirming or repealing the eighth section of the Missouri act, or by any act declaratory of the meaning of the Constitution in respect to the legal points in dispute."

It is said the South did not ask the repeal of this act, but it is a boon tendered by the North. Admitting it to be so, how stands your excuse. It shows that you are willing to take the benefit of an act after it is performed, and that too by your own aid, which your sense of justice would not justify you in asking to be done. Why not then meet the question fairly, and say that no northern man would ever have thought of making this proposition, unless he supposed that it would be acceptable to you. But, sir, has the North made this tender? In the other wing of the Capitol a majority of northern Senators, representing a constituency of eight million seven hundred and sixty-three thousand seven hundred and fifty, voted against it, while the fourteen votes in its favor represented a constituency of only four million five hundred and seventy-eight thousand five hundred and seventy-three, but little more than half as many as the opponents of the bill. And at the first vote in this House on referring the bill to the Committee of the Whole, of the one hundred and two northern votes in favor of the reference, fifty-four were Democrats, forty-four Whigs, and four Free-Soilers, representing together a constituency of ten million two hundred thousand, while the twenty-three votes against it represented a constituency of only two million three hundred thousand. And on the vote a few days since to take up the bill, there were forty-one northern Democrats in favor of it, four of whom are open and avowed opponents of the bill, so that there were but thirty-seven really in its favor, representing a constituency of three million seven hundred thousand, while the forty-two Democrats against it represent a constituency of four million two hundred thousand, and the forty-five northern Whigs a constituency of four million five hundred thousand, so that the entire representation of the North without counting the absentees, is three million seven hundred thousand for the bill to eight million seven hundred thousand against it. And of the ninety-one northern Democrats on this floor, forty-nine are known to be open and avowed opponents of the bill. This, sir, is the record of the men authorized to speak for the North, the record of her delegated agents. And is it not entitled to as much credit and consideration as the proffer of any northern political aspirant with, I will not say southern interests, but "southern principles?"

But it is said, no matter whether the Missouri compromise is constitutional or not, it has been abandoned by the North, therefore we are under no obligation to stand by it any longer. When was it ever abandoned? Is not that act upon the statute-book to-day? Was it not placed there on the 6th of March, 1820? Has it ever been changed? Does it not stand there still as an act of legislation? Then, sir, how has it been abandoned? Is it because the North would not consent to extend the line of 36° 30' across the continent, as desired by the South? If extended to the Pacific ocean, so as to end in salt water, the line would be perfectly just and constitutional, so the South constantly declared and voted from 1847 to 1850;

but as the line terminates amid the crags and spurs of the Rocky Mountains, it is unconstitutional and unjust. Sir, the North was under no obligation to extend it over the acquisition of territory from Mexico; for it was an arrangement made to apply only to the Louisiana purchase, and as such it has ever been respected. Had the North consented to extend this line over the territory acquired of Mexico, it would have been an act of suicidal injustice; for in the territorial expansion of the country she would have beamed herself in upon twelve and a half degrees of latitude, while unlimited expansion would have been open to the South. The wall of British power would hurl back the North, while the Isthmus of Darien or Cape Horn alone would limit the South. For who believes that the territorial expansion of the Republic will not continue till it covers this whole continent? It is one of the incidents of our position resulting from the habits of our people and the character of the nationalities that surround us. While the pioneer spirit presses on into the wilderness, snatching new areas from the wild beast, and bequeathing them a legacy to civilized man, it is in vain you attempt to stay his progress by meridian lines or legislative enactments. The habits of his life and the promptings of his nature are stronger than the river or mountain barriers of nations. And when he has covered this whole continent with the abodes of civilized life, seizing the standard of the Republic, he will bear it across the mighty deep, to regenerate old dynasties, and breathe new life into decayed empires. This, no matter what may be the views of your statesmen or the policy of your legislation, is our mission, our manifest destiny—for energy, enterprise, wealth, and superior intelligence, are destiny—and he who would attempt to stay it may be borne down by the tide, but he cannot change the current.

Why, then, should the North have consented to exclude herself from a participation in the inevitable acquisitions of the future, especially when she had heretofore yielded, without a murmur, the lion's share of all our acquisitions, the whole of Florida, nearly all of Texas, and the half of Louisiana, so that the area of the slaveholding States to-day exceeds that of the free States, including California, two hundred and eighty-five thousand six hundred and eighteen square miles?

But we are told that it is necessary to repeal this act of 1820, in order to give the people their inalienable rights—the right of popular sovereignty. Mr. Chairman, I understand popular sovereignty to be the right of a people to select their own rulers, make their own laws, levy and collect their own taxes. And does this bill permit them to do that, or can it be done under any territorial organization framed by Congress? For when you deprive them of these essential requisites, or either of them, you deprive them of popular sovereignty. What rights of popular sovereignty do you confer or permit even by this bill? You give them no voice in the selection of their rulers, in the levying and collecting their own taxes, for we pay the expenses of their legislation, build their roads, and erect their public buildings, send them their executive and judicial officers, in whose selection they have no choice, and to whom you give a veto power upon the acts of the Territorial Legislature. You thus strip them of all the essentials of popular sovereignty.

It is one of the great and inherent rights of a people, everywhere upon the face of the earth,

to govern themselves. The absolute right of a people in a civil government is to meet together in mass convention, and enact their own laws, and there elect their own rulers. That is popular sovereignty, and the great principle upon which our Government rests—the right of the people to govern themselves. But the inconvenience and almost impossibility of all the citizens of a State of vast area, meeting together for the purpose of enacting laws, makes it necessary to elect representatives for that purpose. Hence, from the necessity of the case, comes representative governments, instead of democracies. So the citizen in every State of the Union, is forced, from the nature of the case, to yield something of his inherent political rights. Your territorial governments, in any shape, are an anomaly in our system of government; and upon the doctrine of absolute popular sovereignty, you should throw your territorial governments to the winds, and leave the people to form their own government and manage their own affairs in their own way.

What did the pretended friends of this principle of popular sovereignty do in the case of California, the only case of real popular sovereignty which ever occurred in any Territory of the Union? Many of the gentlemen here who are now so loud in favor of popular sovereignty, protested against the admission of California, because of the exercise of popular sovereignty by her people, in excluding slavery from her limits. Ten southern Senators, five of whom are now in the Senate and strenuous advocates of this bill, entered a formal protest against the admission of California, after her people in convention had framed her organic law, in the exercise of their popular sovereignty, and among the reasons they assigned for dissenting from the bill was that "it gives the sanction of law, and thus imparts validity to the unauthorized action of a portion of the inhabitants of California by which an odious discrimination is made against the property of the fifteen slaveholding States of the Union who are thus deprived of that position of equality which the Constitution so manifestly designs, and which constitutes the only sure and stable foundation on which the Union can repose."

In the passage of the ordinance of 1787 (for which every southern man voted) it was not then considered that slavery was necessary in order that the States to be formed out of the Northwest Territory might come into the Union on an equal footing with the original States, nor was its exclusion considered degrading to the citizens of the South.

Popular sovereignty, it seems, is right when it admits or benefits slavery, but wrong when it excludes it. In the case now before us, the only difference in this bill, and other bills which have been passed for years for the organization of Territories, is the section repealing the Missouri compromise. And it is that therefore which gives this bill its character *par excellence* of popular sovereignty. And still it is attempted to impose upon the people of the country by the cry of popular sovereignty, when this bill differs not an iota from other bills, save that it repeals a prohibition on slavery.

But any territorial government being an anomaly in our political system, the people who go there must submit to all the conditions incident to that anomalous position during its continuance, which is till the formation of a State constitution. A supervisory power over the Territories is not only

vested in Congress by the Constitution, but, from the nature of the Government, it is necessary that it should have that power. For it would be a strange anomaly indeed if the Government should pay all the expenses of legislation over which it has no control. It would be a strange doctrine that a banditti of one hundred, who, being the first settlers of a Territory, should legalize murder, theft, and arson, and all other crimes known to the criminal calendar, and thus drive off all respectable citizens from settling the public domain in their vicinity, and yet Congress would have no control or voice in the matter, save to pay all the expense of their legislation and the salaries of their officers. If the power is not delegated in the clause of the Constitution giving to Congress the making of all "needful rules and regulations respecting the territory or other property," it is clearly within the treaty-making power.

A necessary incident of the power to acquire is the power to govern, and the power to govern confers the right to make such laws as the governing power shall think wise and necessary, relative to all subjects of legislation in the acquired Territory. And this power is not, of course, limited to the mere function of administering territory as property, for if it embraces the power of civil government at all, it would as well embrace jurisdiction of slavery as any other institution. And if the power of civil government over the territory is not embraced at all, then why are we legislating for the Territories to-day? Why delegate powers to their Legislature, send them their governors, judges, and other civil officers, fix the qualification of their voters, and pay their taxes? Why, if there be no constitutional power to govern in the Territories, do we deny the citizen, even in this bill, the exercise of the great attributes of popular sovereignty, the right to select his own rulers, make his own laws, and levy his own taxes?

And such is the construction even of some of the ablest living statesmen of the South, but I have not the time to refer to but a few of them:

"I agree with those who maintain that the right to govern the Territories is in Congress."—*Mr. Hunter of Virginia, on Oregon bill, July 11, 1848; Appendix Congressional Globe, vol. 19, page 902.*

"I do not doubt the power of Congress to make laws for the government of the people who inhabit a territory belonging to the United States."

"There is no prohibition to be found in the Constitution in respect to the power of Congress over the question of slavery when legislating for a Territory."—*Mr. Underwood, of Kentucky, on Oregon bill, July 25, 1848; Appendix Congressional Globe vol. 19, page 1165.*

"To my understanding it is therefore plain, that, by the treaty-making power, we have express authority to acquire territory; and by the provision I have cited, Congress has express authority to legislate for it when acquired. Now, sir, upon this power what are the restrictions and where are they to be found? There are plainly none in the Constitution itself."—*Mr. Badger, of North Carolina, Appendix Congressional Globe, vol. 19, page 1174.*

The inhabitants of a Territory, till the formation of a State constitution, must, therefore, from the necessity of the case, be subject to the supervision of Congress. They go out in the territory in the first place few in numbers. They go to contest with the savage and the wild beast the dominion of the wilderness, and are not of sufficient numbers, strength, and wealth to protect themselves alone against the uncivilized communities around them. Therefore the General Government pays all the expenses of their government, builds their roads, and erects their public buildings, and, as a consequence, appoints their executive and judicial officers, and yet the country is told that we extend

ular sovereignty, and Congress has no heir legislation. That is not the Constitution, as given to it by its prejudicial interpretations of the highest land, by the action of the Government of its organization to the present the opinions of the most eminent the Republic, living and dead. Mr. Congress, in 1790, on a question of abolition memorial, is thus reported in *lume of Elliot's Debates*, page 213:

"Every addition to the western country, and to the cession of Georgia, in which Congress have certainly the power to regulate the subject of slavery; which shows that gentlemen are mistaken in supposing that Congress cannot constitutionally interfere in the business in any way."

And on the constitutionality of the proposition to tax slaves imported into the States, he said:

"Every addition they receive to their number of slaves, tends to weaken and render them less capable of self-defense. In case of hostilities with foreign nations, they will be the means of inviting attack, instead of repelling invasion. It is a necessary duty of the General Government to protect every part of the empire against danger, as well internal as external. *Everything, therefore, which tends to increase this danger, though it may be a local affair, yet if it involves national expense or safety, becomes of concern to every part of the Union, and is a proper subject for the consideration of those charged with the general administration of the Government.*"—*Debates in Congress (old series) by Gales & Seaton*, volume 1, page 353.

Such was the opinion of the man who had most to do in framing the Constitution of the United States. If then this power be not in violation of the Constitution, what right have the South to complain of its exercise because it is unpalatable to them? Did they not bind themselves to submit to whatever condition the carrying out of that Constitution imposed upon them as well as upon the North?

But, it may be asked, why should the North care what kind of institutions a people select for themselves? Sir, so far as I am concerned as a Representative on this floor, I have no sentimentalities in reference to the institution of slavery as it exists in the States. It is here a local institution, under the protection of local laws, and it is no concern of mine any more than any other of the domestic institutions of the States. I would leave it there unmolested and undisturbed, with the people of each State to devise in their own time their own remedies. But in this case we are called on for positive legislative action—by our votes—to open to the introduction of slavery a vast empire from which it is excluded by positive law. Not satisfied with the settlement we made with you in 1850, by which we agreed to waive the exercise of what the North regarded as a constitutional right, you now ask us by our votes to permit slavery to go into territory from which it is excluded by the law of the land. My answer to such a proposition is the language of your own immortal Clay:

"I will never vote, and no human power will ever make me vote, to spread slavery over territory where it does not now exist."

And I might add the not less emphatic language of his equally illustrious compeer, the veteran Senator of Missouri, [Mr. BENTON], who to-day honors his constituents with a seat on this floor. It was almost the dying declaration of the one, and having lived as a sentiment for more than half a century in the bosom of the other, it will, without a doubt, continue among the legacies that he will bequeath to the generations that are to come after him.

But gentlemen tell us that slavery cannot go there, by reason of climate and soil. There are,

to-day, north of the parallel of 36° 30', eight hundred and sixty-three thousand five hundred and eighty-nine slaves, being more than a fourth of all the slaves in the entire Union. If climate and soil, and the laws of nature and God, will keep slavery out of Kansas, why have they not expelled it from Missouri, Kentucky, Virginia, Maryland, and Delaware, during the two centuries since its first introduction there? With the same latitude, the same soil, and the same climate, the number of slaves has been constantly increasing in all these States except Delaware and Missouri. What differences of climate and soil, what different laws of nature and God, are to operate in the Territory of Kansas to prevent it from becoming a slave State, if this bill passes? But if slavery cannot go there, why repeal this act? Why excite anew angry sectional feelings if nothing is to be accomplished by it? In my judgment, if this bill passes, Kansas will become a slave State; and yet northern men are asked to effect this by a positive legislative act by their votes. If the Missouri act is constitutional, what cause of complaint can there be because we refuse to repeal it? And while there is a tribunal that can annul it, why ask us to yield our convictions on a controverted point?

But a reason urged in and out of this Hall by the opponents of this bill is, that you are voting with Abolitionists! Is there a man upon this floor so craven that he will refuse to utter his deep convictions, and vote the sentiments of his heart, because he will stand on the record with some man whose opinions, on other questions, he does not approve? The men who urge that reason libel their own integrity of character no less than the injustice they do to others; for no honorable man will prescribe a rule of conduct for others that he would not be governed by himself. For myself I shrink from no companionship on the record, when my judgment approves the vote; it is no difference to me who I vote with. Nor have minorities any terrors for me, or for the constituents I represent. They stood alone in the Keystone in the last great battle for the supremacy of free and untrammelled commerce. Traded by almost the entire press of the State, aided by the corporate capital of the Commonwealth—as false to Pennsylvania interests and recreant to their party obligations as Pennsylvania Democrats—yet uncorrupted by patronage and unawed by power, they rallied around and upheld the banner of free trade and unrestricted commerce, which they had thrown to the breeze in 1844, while the standard of Democracy trailed in the dust in almost every other portion of the Commonwealth. When satisfied that they are right, they stand by their convictions in sunshine or in storm; and their representative, if true to them, will do the same.

But it is said that it is necessary to repeal the Missouri compromise, in order to take the question of slavery out of Congress, and to quiet agitation by removing it from the political arena. How will the passage of this bill do it? Would there not still exist the same reason for demanding the repeal of the ordinance of 1787 in Minnesota, the proviso in Oregon, and the Mexican laws in Utah and New Mexico.

Those who make this declaration, with so much apparent sincerity, either do not understand the real sentiment of the North, or they fail to comprehend aright the springs of human action. Sir, you are raking open and fanning into a flame coals which were already smothered, and which, if left alone, would have buried themselves forever in

their own cinders. The injudicious legislation in this Hall in reference to slavery is the origin of political Abolitionism, and has given them all the strength they possess. Previous to the passage of the 21st rule, Abolitionism was but a sentiment, and a mere sentiment is not a sufficient basis for a formidable political organization. But when great principles of constitutional right are violated in the legislation of a country, legislative acts, combining with a strong and universal sentiment, may form enduring political organizations. And the sentiment of the North in reference to slavery being deep and general, when you force up legislative issues to combine with it, it then becomes a formidable element, as illustrated in the canvass of 1848, when, notwithstanding the strength and power of the Democratic party, its standard-bearer was stricken down on an issue similar to the one you are now forcing upon the country. I refer to that result in no spirit of exultation or taunt, for I was then one of the ardent supporters of the veteran statesman of Michigan; and after giving my best efforts, during the canvass, to his success, it was with a sad heart I received his final defeat.

In that canvass New Hampshire was the only northern State in which the Whig and Free-Soil vote did not exceed the Democratic. And who that knows anything of the real sentiment of the North, does not believe that that combination would be augmented a hundredfold on this issue? For then the Whigs were divided in sentiment on the slavery question, now they are a unit. And the organization of the Democratic party having lost most of its power over voters, must, under this issue, go into a hopeless minority in the northern States. The two hundred and ninety-one thousand voters, who in 1848 separated from their old political associates and party organizations, to lead a forlorn hope, would, in my judgment, when again mustered into service, become, instead of guerrillas, a standing army to strike down the staff officers of the Democracy on this issue, as they did in 1848. The same consequences, it seems to me, must be the result. Not having approved of the movement at that time, I therefore speak of it freely "as philosophy teaching by example."

But, sir, as an early and constant friend of this Administration, I desire the defeat of this bill; for its passage will, in my judgment, insure, beyond a doubt, an anti-Administration majority in the next Congress. As an earnest and devoted friend of the Democratic party, to which I have cheerfully given my best energies from my earliest political action, I desire the defeat of this bill; for its passage will blot it out as a national organization, and, leaving but a wreck in every northern State, it will live only in history. As a lover of peace, harmony, and fraternal concord among the citizens of the Confederacy, and as a devotee at the shrine of this Union, with all its precious hopes to man, I desire the defeat of this bill; for its passage will tear open wounds not yet healed, lacerate spirits already frenzied, and "the bond of confidence which unites the two sections of the Union will be rent asunder, and years of alienation and unkindness may intervene before it can be restored, if ever, to its wonted tenacity and strength."

I would say in all kindness to the Representatives of the South upon this floor, that if you would strike down the true men of the North who have ever, with manly inflexibility, maintained your constitutional rights against all fanatical assaults, you have but to force upon them the passage of this bill as a political issue; and when, by

your own deliberate act, you have violated the compact of freedom, entered into in 1787 by your fathers as a settlement of contests, observed by them while living, sustained as such by all sections of the Union more than a third of a century, you have destroyed the last breakwater that secures your rights and the surges of northernism; and, having thereby engulfed yourself, you must be content to bare your own heaving billows. Is a reckless inconsideration of your behalf to the deep-seated conviction of the northern mind the part of wisdom?

Interest to lash it into a frenzy on a mere abstraction that you claim to be of no practical benefit? For what, though you repose in a fancied security, that as a last resort, you have a remedy against all aggressions, real or imaginary, in a dissolution of the Union? How would you derive greater security by making the Ohio river, instead of the Niagara, the line to divide slave from free territory? How would it render your property any more secure by fixing a meridian line as a national boundary along the very borders of your present limit?

Security, sir, in a dissolution of this Union! It would be the security of the maiden who conceals in her bosom the poisoned dagger that in the last extremity is to take her own life, after it has drunk the life-blood of the aggressor. It would be the security of the strong man who, laying hold on the pillars of Gaza, buried himself with his foes in a common ruin—it is the security of despair, enveloped in darkness and woe. For if ever the starry banner of this Union shall cease to float the emblem of a united Confederacy the last hope of the oppressed will go out in darkness, and a pall of midnight gloom will hang over his future. If ever yonder eagle, torn by faction and strife, shall fall rent and dismembered, it will be the knell of man's political rights, the death-sigh of liberty on earth. If ever, in our national disasters, this event shall fall upon us, humanity will be shrouded in mourning, and despair will pall the future of man.

The American is, therefore, bound to this Union by the glories of the past and the hopes of the future, by the love which he bears to his offspring, and by the sympathy that throbs warm in the heart of man for the woes of his race. The Constitution and the Union of these States—the proudest monument ever reared to the wisdom of man—and if ever folly or fanaticism shall lay it in the dust, freedom, heaving her last sigh, may wing her way back from earth to heaven. Strike out this last beacon light, this polar star to guide the political mariner over the troubled waters of revolution and reform, and his tempest-tossed bark, dismantled and rudderless, will sink beneath the waves, and the winds of heaven will bear to the ends of the earth the wailings of despair as they come up from crushed humanity. But, sir, I harbor no such gloomy forebodings for the future of my country and race. I trust in God that when the angel shall take his place, with one foot upon the land and the other upon the sea, to proclaim to the world that time is no longer, the banner that waves so proudly o'er us to-day will still float out with its proud motto inscribed upon its folds in letters of living light.

Sir, this is the only element of discord that can ever sunder the bonds of this Union; and there is one method to render even this harmless. And that is, faithfully to observe all the compromises and reconciliations of its conflicts, and henceforth banish it forever from these Halls.